

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE LITIGATION**

)
) **MDL No. 1456**
) **Master File No. 01- 12257-PBS**
) **Subcategory Case. No. 06-11337**
)

THIS DOCUMENT RELATES TO:

*United States of America ex rel. Ven-A-Care of the
Florida Keys, Inc., et al. v. Dey, Inc., et al.,*
Civil Action No. 05-11084-PBS

) **Hon. Patti B. Saris**
)
) **Magistrate Judge**
) **Marianne B. Bowler**
)
)

**DEFENDANTS DEY, INC., DEY, L.P., AND DEY L.P., INC.'S
CONSENTED TO MOTION FOR LEAVE TO FILE A SUR-REPLY
IN OPPOSITION TO THE UNITED STATES'
MOTION TO CONSOLIDATE CASES FOR TRIAL**

Pursuant to Rule 7.1(b)(3) of the Local Rules for the District of Massachusetts, Defendants Dey, Inc., Dey, L.P., and Dey L.P., Inc. (collectively, "Dey"), seek leave of the Court to file a sur-reply in opposition to Plaintiff United States of America's (the "Government") Motion to Consolidate Cases for Trial. Counsel for Dey has conferred with counsel for the Government, who has indicated that the Government consents to this motion. The proposed Sur-Reply Memorandum of Law in Opposition to the United States' Motion to Consolidate Cases for Trial is annexed hereto as Exhibit 1.

Dated: December 8, 2009

Respectfully Submitted,

KELLEY DRYE & WARREN LLP

By: /s Sarah L. Reid
Paul F. Doyle (BBO # 133460)
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*Attorneys for Defendants Dey, Inc.
Dey, L.P., and Dey L.P., Inc.*

LOCAL RULE 7.1 CERTIFICATION

I certify that, on December 8, 2009, counsel for Dey consulted with counsel for the Government, who indicated that the Government consented to this motion.

/s Sarah L. Reid

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by causing to be sent, on December 8, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

_____/s Sarah L. Reid